

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v -

SAVERIO TODARO,

Defendant.

INFORMATION

10 CRIM (268)

COUNTS ONE THROUGH FIVE

False Statements, Representations and Documents
Relating to Lead Testing

The United States Attorney charges:

Background

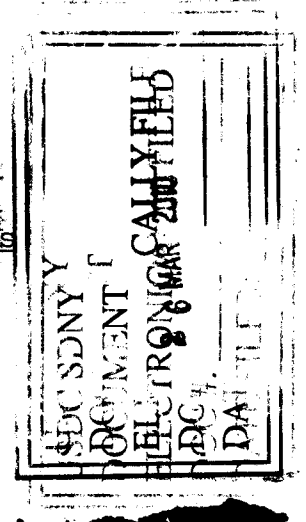
The Federal Regulatory Framework

1. At all times relevant to this Information:

a. The United States Environmental Protection Agency ("EPA") was an agency of the United States Government whose mission was to protect human health and the environment.

b. As part of its execution of this mission, EPA had found that the long-term effects of lead exposure in children can be severe. EPA had found that these effects include learning disabilities, decreased growth, hyperactivity, impaired hearing and brain damage. In addition, EPA had found that lead exposure can cause nerve disorders, high blood pressure, and reproductive problems in adults.

c. EPA had the authority to administer the Toxic Substances Control Act ("TSCA"), including the authority to promulgate and enforce regulations pursuant to that Act. Among other things, TSCA included provisions intended to reduce human



exposure to lead. Included among the regulations promulgated by EPA pursuant to TSCA (the "TSCA regulations") were regulations governing certain lead-based paint activities, including the inspection for and abatement of lead-based paint. The TSCA regulations defined an abatement as a measure or set of measures designed to permanently eliminate lead-based paint hazards.

d. Among other things, the TSCA regulations required that persons performing certain lead-based paint activities, including inspections and abatement, attend an EPA-accredited training program and be certified by EPA.

e. In addition, the TSCA regulations required that lead-based paint abatement be conducted in compliance with specific work practice standards, that is, certain procedures, which were set forth in the regulations. The work practice standards included a requirement that post-abatement clearance procedures be performed to ensure that the premises were safe for occupancy. The required clearance procedures included the sampling of dust in the premises by specified, qualified personnel, including EPA-certified lead risk assessors, and the analysis of the dust samples by a scientific laboratory recognized by EPA as being capable of performing analysis for lead compounds in paint chip, dust, and soil samples. Under the regulations, if analysis of the dust samples determined that certain specified clearance levels had not been met, additional cleaning and re-testing were required.

f. Under the TSCA regulations, EPA had the

authority to suspend, revoke or modify the certifications of individuals engaged in lead-based paint activities, including EPA-certified risk assessors, under certain circumstances. Those circumstances included, among other things, failure to comply with applicable work practice standards and failure to comply with Federal, State, or local lead-based paint statutes or regulations.

The New York City Regulatory Framework

2. At all times relevant to this Information:

a. New York City statutes and regulations included provisions relating to lead-based paint that were intended to reduce childhood exposure to lead. Those provisions required abatement in certain circumstances and other kinds of remediation in other circumstances. For example, abatement was required in the home of a child under the age of 18 when blood screening determined that the child had a level of lead in his or her blood above a certain threshold and an inspection of the child's home identified a lead-based paint hazard in the home. Abatement and/or other types of remediation were required when lead-based paint hazards were identified during building inspections in other circumstances.

b. New York City statutes and regulations required that post-abatement and post-remediation clearance procedures be performed to ensure that the premises were safe for occupancy. The required clearance procedures included sampling of dust in the premises by specified, qualified personnel,

including EPA-certified lead risk assessors, and the analysis of the dust samples by a government-certified scientific laboratory. New York City law required that if analysis of the dust samples determined that certain specified clearance levels had not been met, additional cleaning and re-testing were required.

c. The New York City Department of Health ("DOH") was a department of the City of New York. Among other things, DOH administered a lead poisoning prevention program the mission of which was to prevent and control childhood lead poisoning ("the DOH Lead Program"). In connection with the DOH Lead program, DOH reviewed children's blood test results for elevated levels of lead, performed home inspections to assess lead-based paint hazards, issued violations and orders mandating the abatement and remediation of lead-based paint hazards, and reviewed documents submitted to it purporting to reflect the results of clearance testing.

d. The New York City Department of Housing Preservation and Development ("HPD") was a department of the City of New York. Among other things, HPD administered programs the purpose of which was to ensure the safety of existing housing stock in New York City, including a program to enforce New York City laws, rules and regulations relating to lead-based paint hazards in residential buildings (the "HPD Lead Program"). In connection with the HPD Lead Program, HPD performed inspections to assess lead-based paint hazards, issued violations and orders mandating the abatement and/or remediation of lead-based paint

hazards, and reviewed documents submitted to it purporting to reflect the results of clearance testing.

The Defendant

3. From on or about November 23, 2001 until on or about November 22, 2004 and from on or about December 4, 2004 up to on or about December 8, 2009, SAVERIO TODARO, the defendant, was an EPA-certified lead risk assessor. At all times relevant to this Information, SAVERIO TODARO, the defendant, operated a company called SAF Environmental Corp. ("SAF"), through which TODARO purported to perform environmental inspection and testing services, including lead clearance testing, in the New York City area.

The False and Fictitious Laboratory Reports

4. On numerous occasions between November 2001 and the date of filing of this Information, SAVERIO TODARO, the defendant, purported to perform lead clearance testing in residences in New York City that had been found by New York City officials, through the DOH Lead Program or the HPD Lead Program, to contain lead-based paint hazards and were the subject of lead-based paint violations and orders requiring abatement and/or remediation. On certain occasions, TODARO submitted dust samples to laboratories for analysis for lead and received reports of analysis from those laboratories. However, on numerous other occasions, TODARO took no samples and submitted nothing to laboratories for analysis, or took samples but did not submit them to laboratories for analysis. Instead, using actual

laboratory reports he had previously received as models, TODARO created bogus laboratory reports that purported to set forth the results of laboratory analysis that had not, in fact, been performed. The bogus laboratory reports created by TODARO purported to identify the laboratory that performed the analysis, typically by bearing an unauthorized copy of that laboratory's actual letterhead, purported to set forth a list of samples taken and the analytical results for each, results that TODARO had fabricated, and purported to be signed by laboratory employees, when in fact TODARO had copied signatures from actual laboratory reports. The bogus laboratory reports purported to show that the premises were safe for occupancy. TODARO then submitted the bogus laboratory reports to the New York City department that had ordered the abatement and/or remediation.

Statutory Allegation

5. On or about the dates set forth below, in the Southern District of New York, SAVERIO TODARO, the defendant, in a matter within the jurisdiction of the executive branch of the Government of the United States, specifically, a matter within the jurisdiction of the United States Environmental Protection Agency, a department and agency of the United States, unlawfully, willfully and knowingly did falsify, conceal, and cover up by trick, scheme and device material facts, make materially false, fictitious, and fraudulent statements and representations and make and use false writings and documents knowing the same to contain materially false, fictitious, and fraudulent

representations and entries, to wit, TODARO, while an EPA-certified lead risk assessor, operating through his company, SAF, created bogus documents, described below, which purported to be reports issued by scientific laboratories setting forth the results of laboratory analysis for lead of dust samples taken as part of clearance procedures when, in fact, no laboratory analysis had been performed, and submitted and caused those bogus documents to be submitted to the New York City government offices identified below:

COUNT	APPROXIMATE DATE	GOVERNMENT AGENCY	DOCUMENT DESCRIPTION
ONE	March 7, 2005	HPD office in New York, New York	Documents purporting to be laboratory reports of the results of lead analysis for samples taken from a building located on Madison Avenue in New York, New York
TWO	December 12, 2005	HPD office in New York, New York	Documents purporting to be laboratory reports of the results of lead analysis for samples taken from a building located on White Plains Road in the Bronx, New York
THREE	August 25, 2006	DOH office in New York, New York	Documents purporting to be laboratory reports of the results of lead analysis for samples taken from a building located on Bleeker Street in Brooklyn, New York
FOUR	January 5, 2007	DOH office in New York, New York	Documents purporting to be laboratory reports of the results of lead analysis for samples taken from a building located on Ninth Avenue in New York, New York

FIVE	August 11, 2008	DOH office in New York, New York	Documents purporting to be laboratory reports of the results of lead analysis for samples taken from a building located on 90 th Street in Queens, New York
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(Title 18, United States Code, Sections 1001 and 2.)

COUNTS SIX THROUGH EIGHT

Violations of the Toxic Substances Control Act

The United States Attorney further charges:

6. The allegations of paragraphs 1 through 4, above, are repeated and realleged as though set forth in full in these Counts.

7. On or about the dates set forth below, in the Southern District of New York, SAVERIO TODARO, the defendant, did knowingly fail and refuse to comply with requirements prescribed by and rules promulgated under section 2682 of Title 15, United States Code, in that TODARO failed to cause a laboratory recognized by EPA as being capable of performing analysis for lead compounds in paint chip, dust, and soil samples to analyze dust samples taken as part of clearance procedures following abatements at the premises identified below:

COUNT	APPROXIMATE DATE	PREMISES
SIX	March 7, 2005	A building located on Madison Avenue in New York, New York
SEVEN	December 12, 2005	A building located on White Plains Road in the Bronx, New York
EIGHT	January 5, 2007	A building located on Ninth Avenue in New York, New York

(Title 15, United States Code, Sections 2689 and 2615(b);
Title 40, Code of Federal Regulations, Section 745.227.)

COUNTS NINE AND TEN

Mail Fraud in Connection with Lead Clearance Testing
And Asbestos Air Monitoring

The United States Attorney further charges:

8. The allegations of paragraphs 1 through 4, above, are repeated and realleged as though set forth in full in these Counts.

9. At all times relevant to this Information:

a. EPA had found that inhalation of asbestos can cause lung disease and cancer. EPA classified asbestos as a known human carcinogen.

b. Certain kinds of demolition and renovation activities could result in the release of asbestos fibers from building components into the air and the contamination of building components with lead-containing dust.

c. Asbestos fibers in the air could be detected through the taking of air samples and laboratory analysis of those samples ("air monitoring"). Lead contamination of building components could be detected through lead clearance testing.

d. SAVERIO TODARO, the defendant, was a New York State licenced asbestos air sampling technician. TODARO purported to conduct asbestos air monitoring through his company, SAF.

10. On numerous occasions at times relevant to this Information, SAVERIO TODARO, the defendant, mailed and caused to

be mailed bogus lead clearance laboratory reports, together with invoices purporting to be for actual lead clearance testing, to customers in connection with lead-based paint abatements and remediations ordered by DOH and HPD.

11. On hundreds of occasions at times relevant to this Information, SAVERIO TODARO, the defendant, created and caused to be created bogus laboratory reports purporting to set forth the results of asbestos air monitoring and lead clearance testing purportedly performed at sites in which demolition and renovation activities were occurring or had occurred. TODARO mailed these reports, and caused them to be mailed, along with invoices for payment for his purported services, to customers. Those customers included, among others, management companies, landlords, and contractors. Some of TODARO's customers, in turn, billed customers of their own for TODARO's purported services.

12. Some of the fraudulent invoices submitted by SAVERIO TODARO, the defendant, were ultimately paid for under New York City government programs, administered by HPD, under which buildings in New York City were renovated, demolished, or demolished and re-built (the "HPD Programs"). One purpose of the HPD Programs was to increase the stock of affordable housing in New York City. Construction managers and others submitted periodic requisitions for payment to HPD for services performed, or purportedly performed, under the HPD Programs. HPD reviewed those requisitions, and upon approval, authorized payment. Some of those requisitions sought payment for asbestos air monitoring

and lead clearance sampling purportedly performed by TODARO.

Statutory Allegation

13. On or about the dates set forth below, in the Southern District of New York, SAVERIO TODARO, the defendant, unlawfully, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, to wit, a scheme to defraud by creating and causing to be created and submitting to customers laboratory reports purporting to set forth the results of lead clearance testing and asbestos air monitoring and invoices purporting to bill for actual lead clearance testing and asbestos air monitoring, for the purpose of executing such scheme and artifice and attempting so to do, did place and cause to be placed in post offices and authorized depositories for mail matter, matters and things to be sent and delivered by the Postal Service, and did deposit and cause to be deposited matters and things to be sent and delivered by private and commercial interstate carriers, and did knowingly cause to be delivered by mail and such carriers according to the direction thereon, and at the place at which it is directed to be delivered by the person to whom it is addressed, such matters and things, identified below:

COUNT	APPROXIMATE DATE	MAILING
NINE	January 24, 2007	A check in payment, among other things, for asbestos air monitoring purportedly performed at a building located on Dawson Street in the Bronx, New York
TEN	June 28, 2008	Bogus laboratory report and invoice relating to purported lead clearance testing in a building located on West 179 th Street in the Bronx, New York

(Title 18, United States Code, Sections 1341 and 2.)

COUNT ELEVEN

Mail Fraud In Connection with Asbestos Inspections

The United States Attorney further charges:

14. The allegations of paragraphs 1a. and 9a., above, are repeated and realleged as though set forth in full in this Count.

The New York City Asbestos Inspection Requirement

15. At all times relevant to this Information, the City of New York had promulgated rules and regulations intended to reduce human exposure to asbestos fibers. Among other things, those rules and regulations required that, prior to the commencement of certain demolition and other projects (the "projects") in buildings in New York City, an inspection be performed by a New York City certified asbestos investigator to determine, among other things, whether asbestos was present in the affected building component and, if so, how much asbestos was present, what kind of asbestos it was, and whether the asbestos

would be disturbed during the project. Among other things, the purpose of the inspection was to determine whether the project was to be an "asbestos project" - that is, one that would disturb more than a minimal amount of asbestos of a kind likely to pose an inhalation hazard - or not. If the project was determined to be an asbestos project, New York City rules and regulations required the filing of a notice with the City and required an abatement, in compliance with rules designed to minimize the release and inhalation of asbestos fibers, prior to commencement of the project. If the project was determined not to be an asbestos project, New York City rules and regulations required that a certified asbestos investigator complete, sign, and affix his or her asbestos investigator seal to a form captioned "Not an Asbestos Project," known generally as an ACP 5, and file that form with the City prior to issuance of a building permit and commencement of the project.

The Suspension of the Defendant's
Asbestos Investigator Certificate

16. From in or about 1989 up to on or about February 17, 2004, SAVERIO TODARO, the defendant, held an asbestos investigator certificate issued by the City of New York. Among other things, that certificate authorized TODARO to inspect buildings for asbestos and to prepare and file ACP-5s.

17. On or about February 17, 2004, the City of New York suspended the defendant SAVERIO TODARO's asbestos investigator certificate and required TODARO to surrender his certificate immediately. TODARO did so. From that time up to

and including the date of filing of this Information, TODARO was prohibited from performing building inspections for asbestos and from preparing and filing ACP-5s in the City of New York.

The Fraudulent Scheme

18. After February 17, 2004, despite the suspension of his asbestos investigator certificate, SAVERIO TODARO, the defendant, continued to prepare ACP-5s for filing with the City of New York. On numerous occasions, TODARO did so without actually performing an inspection of the premises identified in the ACP-5. In order to make it appear that inspections had actually been performed by a certified asbestos investigator, TODARO prepared backdated ACP-5s that falsely represented that he had performed an asbestos inspection and that he had done so prior to the suspension of his asbestos investigator certificate ("the bogus ACP-5s"). TODARO submitted bogus ACP-5s, together with invoices describing the services provided as "Inspect/ACP5," to his customers, at least some of whom billed customers of their own for TODARO's purported services.

Statutory Allegation

19. In or about April 2005, in the Southern District of New York, SAVERIO TODARO, the defendant, unlawfully, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, to wit, a scheme to defraud by creating bogus ACP-5s and billing for purported asbestos inspection services by a

certified asbestos investigator, for the purpose of executing such scheme and artifice and attempting so to do, did place and cause to be placed in post offices and authorized depositories for mail matter, matters and things to be sent and delivered by the Postal Service, and did deposit and cause to be deposited matters and things to be sent and delivered by private and commercial interstate carriers, and did knowingly cause to be delivered by mail and such carriers according to the direction thereon, and at the place at which it is directed to be delivered by the person to whom it is addressed, such matters and things, to wit, a document discussing the need for, and cost of, an ACP-5 sent by a design/architectural services firm that was a customer of TODARO's to a client of the firm.

(Title 18, United States Code, Sections 1341 and 2.)

FORFEITURE ALLEGATION

20. As the result of committing the offenses charged in Counts Nine, Ten and Eleven of this Information, SAVERIO TODARO, the defendant, shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offense, including but not limited to the following:

Money Judgment

a. \$304,395.00 in United States currency, in that such sum constitutes or is derived, directly or indirectly, from proceeds obtained as a result of the offenses charged in Counts

Nine, Ten and Eleven, above.

Substitute Asset Provision

a. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third person;

(3) has been placed beyond the jurisdiction of the Court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Section 981 and Title 28, United States Code, Section 2461.)



PREET BHARARA
UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT
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SAVERIO TODARO,

Defendant.

INFORMATION

10 Cr.

(Title 18, United States Code, Sections 981, 1001, 1341 and 2; Title 15, United States Code, Sections 2689 and 2615(b); Title 28, United States Code, Section 2461; and Title 40, Code of Federal Regulations, Section 745.227.)

PREET BHARARA

United States Attorney.

3/26/10 Initial Appearance

Consent to proceed before M.J.

Delinquent Plea Waiver of Indictment

3/26/10
553

Def. pres. with attorney Steve Stritzinger

AUSA Gonzalez

Court Reporter present

Interpreter pres./not pres. Def. withdraws plea of not guilty & enters a plea of guilty to count(s) Informant

PSI Ordered. Sentence 6/28/10

Bail Conditions set

Mag. Judge Gornstein

recommends Judge Wood

accept the guilty plea.